

Mail Stop Interference
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Paper 1
Filed: February 19, 2010

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

THE UNIVERSITY OF MELBOURNE
Junior Party
(U.S. Patent Application 11/856,949),

v.

WARNER-LAMBERT COMPANY, LLC
Senior Party
(U.S. Patent 7,108,852).

Patent Interference No. 105,739 (MPT)
(Technology Center 1600)

DECLARATION - Bd.R. 203(b)¹

¹ "Bd.R. x" may be used as shorthand for "37 C.F.R. ' 41.x". 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

1 **Part A. Declaration of interference**

2 An interference is declared (35 U.S.C. § 135(a)) between the above-
3 identified parties. Details of the application(s), patent (if any), reissue application
4 (if any), count(s) and claims designated as corresponding or as not corresponding
5 to the count(s) appear in Parts E and F of this DECLARATION.

6 **Part B. Judge managing the interference**

7 Administrative Patent Judge Michael P. Tierney has been designated to
8 manage the interference. Bd. R. 104(a).

9 **Part C. Standing order**

10 A Trial Section STANDING ORDER [SO] (Paper 2) accompanies this
11 DECLARATION. The STANDING ORDER applies to this interference.

12 **Part D. Initial conference call**

13 A telephone conference call to discuss the interference is set for 2:00 p.m. on
14 April 20, 2010 (the Board will initiate the call).

15 No later than four business days prior to the conference call, each party shall
16 file and serve (SO ¶¶ 10.1 & 105) a list of the motions (Bd. R. 120; Bd. R. 204;
17 SO ¶¶ 104.2.1, 120 & 204) the party intends to file.

18 A sample schedule for taking action during the motion phase appears as
19 Form 2 in the STANDING ORDER. Counsel are encouraged to discuss the
20 schedule prior to the conference call and to agree on dates for taking action.

1 A typical motion period lasts approximately eight (8) months. Counsel should be
2 prepared to justify any request for a shorter or longer period.

3
4 **Part E. Identification and order of the parties**

5 Junior Party

6 Named Inventors: John Hamilton, Victoria, Australia
7 Peter Gary Anderson, Victoria, Australia
8 Ian Keith Campbell, Victoria, Australia
9 Involved Application: U.S. Patent Application 11/856,949, filed
10 September 18, 2007.
11 Title: Method of Treatment and Agents Useful for Same
12 Assignee: The University of Melbourne

13
14 Senior Party

15 Named inventors: Madhav N. Devalaraja, Ann Arbor, MI
16 Joseph E. Low, Ann Arbor, MI
17 Involved Patent: U.S. Patent No. 7,108,852, issued on
18 September 19, 2006, based upon U.S. Patent
19 Application 09/885,259 filed February 23, 2001.
20 Title: Methods of Treating Inflammation Using
21 Antibodies to M-CSF
22 Assignee: Warner-Lambert Company, LLC

23
24 The senior party is assigned exhibit numbers 1001-1999. The junior party is
25 assigned exhibit numbers 2001-2999. Bd. R. 154(c)(1); SO ¶ 154.2.1. The senior

1 party is responsible for initiating settlement discussions. SO ¶ 126.1.

2
3 **Part F. Count and claims of the parties**

4 **Count 1**

5 A method of treating rheumatoid arthritis in a mammal according to
6 U.S. Patent 7,108,852 claim 1 or U.S. Application 11/856,949 claim 29.

7 The claims of the parties are:

8 U. of Melbourne '852: 1-7

9 Warner-Lambert '949: 29-37

10 The claims of the parties which correspond to Count 1 are:

11 U. of Melbourne '852: 1-7

12 Warner-Lambert '949: 29-37

13
14 The claims of the parties which do not correspond to Count 1, and therefore
15 are not involved in the interference, are:

16 U. of Melbourne '852: None

17 Warner-Lambert '949: None

18
19 The parties are accorded the following benefit for Count 1:

20 The University of Melbourne is accorded benefit of the filing date of
21 the earlier filed application:

22 U.S. Provisional Application 60/190,842, filed March 20, 2000.

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Warner-Lambert is accorded benefit of the filing date of the earlier
filed applications:

- i) U.S. Application 09/851,230, filed May 8, 2001, now
U.S. Patent No. 7,455,836;
- iv) U.S. Provisional Application 60/202,392, filed May 8, 2000.

1 **Part G. Heading to be used on papers**

2 The following heading must be used on all papers filed in this interference,
3 see SO ¶ 106.1.1:

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Part H. Order form for requesting file copies

When requesting copies of files, use of SO Form 4 will greatly expedite processing of the request. Please attach a copy of Parts E and F of this DECLARATION with a hand-drawn circle around the patents and applications for which a copy of a file wrapper is requested.

/Michael P. Tierney/
Administrative Patent Judge

Enc:

Copy of STANDING ORDER
Copy U.S. Patent 7,108,852
Copy of claims of U.S. Application 11/856,949

Revised 3 January 2006

cc (via overnight delivery):

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